

1 KAREN P. HEWITT
2 United States Attorney
3 STEWART M. YOUNG
4 Assistant U.S. Attorney
5 California State Bar No. 234889
6 Federal Office Building
7 880 Front Street, Room 6293
8 San Diego, California 92101-8893
9 Telephone: (619) 557-6228
10 E-mail: stewart.young@usdoj.gov

11 Attorneys for Plaintiff
12 United States of America

FILED

08 APR 14 PM 3:35

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

) Case No.

16) **08-CV-0675-JLS AJB**

17 Plaintiff,

) COMPLAINT FOR FORFEITURE

18 v.

ONE RESIDENTIAL PROPERTY
LOCATED AT 818 ORA AVO,
VISTA, CALIFORNIA,
AND ALL IMPROVEMENTS
AND APPURTENANCES
AFFIXED THERETO,

Defendant.

19 1. For its claim against the defendant real property, One Residential Property Located
20 at 818 Ora Avo, Vista, California, and All Improvements and Appurtenances Affixed Thereto
21 ("defendant property"), more particularly described as:

22 ASSESSORS PARCEL NO. 181-231-26-00

23 THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST
24 QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 11
25 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL
PLAT THEREOF, DESCRIBED AS FOLLOWS:

26 BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST
27 QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER;
THENCE NORTH 3° 18' 10" WEST ALONG THE WESTERLY LINE OF SAID SECTION
28 27, A DISTANCE OF 220 FEET TO THE TRUE POINT OF BEGINNING THENCE
CONTINUING ALONG SAID LINE, NORTH 3° 18' 00" WEST 95 FEET; THENCE
LEAVING SAID LINE, NORTH 88° 42' WEST 260 FEET THE TRUE POINT OF
BEGINNING.

CH

1 the United States of America alleges:

2 2. This Court has jurisdiction under Title 28, United States Code, Sections 1345 and
3 1355, Title 21, United States Code, Section 881(a)(7) (forfeiture of property used in any manner
4 to commit or facilitate the commission of an illegal controlled substances offense) and Title 18,
5 United States Code, Section 985 (civil forfeiture of real property).

6 3. Venue is proper pursuant to Title 28, United States Code, Section 1391 because the
7 Defendant real property is located within the jurisdiction of this Court and the acts which give rise
8 to the forfeiture of the Defendant real property to the United States occurred within the Southern
9 District of California.

10 4. On April 14, 2008, the Drug Enforcement Administration ("DEA") executed a
11 federal search warrant at the defendant property. Seized pursuant to the search warrant was a
12 clandestine indoor marijuana cultivation operation consisting of approximately 2266 marijuana
13 plants. The marijuana grow operation was concealed in the residence of the Defendant real
14 property. Rudy Tijerina, Jesse Sandoval, and Kyle Kimbrel were found inside the residence at the
15 defendant property.

16 5. By virtue of the aforementioned acts and premises alleged herein, either singly or
17 in combination, the Defendant property is subject to forfeiture under Title 21, United States Code,
18 Section 881(a)(7).

19 6. The estimated value of the defendant property is approximately \$673,000.

20 WHEREFORE, pursuant to 18 U.S.C. § 985, the United States does not request authority
21 from the Court to seize the defendant property at this time. The United States will, as provided by
22 18 U.S.C. § 985(b)(1) and (c)(1):

- 23 a. post notice of this Complaint on the defendant property, and
24 b. serve notice of this action on the defendant property owner(s) along with a
25 copy of this Complaint, and
26 c. file a lis pendens notice in county records of the defendant property's status
27 as the defendant in this in rem forfeiture action.

28 //

The United States will also, as provided in 19 U.S.C. § 1606, appraise the defendant property.

Title 18 U.S.C. § 985(c)(3) provides that, because the United States will post notice of this Complaint on the defendant property, it is not necessary for the Court to issue an arrest warrant in rem, or to take any other action to establish in rem jurisdiction over the defendant property. Title 18 U.S.C. § 985(b)(2) clearly states that “the filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.”

DATED: April 14, 2008.

KAREN P. HEWITT
United States Attorney

STEWART M. YOUNG
Assistant U. S. Attorney

VERIFICATION

I, Judy Gustafson, hereby state and declare as follows:

1. I am a Special Agent with the Drug Enforcement Administration.
 2. I have read the foregoing complaint and know its contents.
 3. The information in the complaint was furnished by official government sources.

Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on 4-14-08

Judy Gustafson
Special Agent
Drug Enforcement Administration

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)**DEFENDANTS**

APR 14 PM 3:35

One Residential Property Located at 818 Ora Avo Drive,
Vista, California
CLERK, U.S. DISTRICT COURT
CITY OF SAN DIEGO, CALIFORNIA
County of Residence of First Listed Plaintiff _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA Stewart M. Young Tel: 619/557-6228
880 Front Street, Room 6293, San Diego, CA 92101-8893

Attorneys (If Known)

'08 CV 0675 JLS AJB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF	
	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	IMMIGRATION	<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 899 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 900Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 465 Other Immigration Actions		
	<input type="checkbox"/> 440 Other Civil Rights			

V. ORIGIN

(Place an "X" in One Box Only)

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court |
|---|---|--|

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|--|---|--|

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title 21, United States Code, Section 881(a)(7)Brief description of cause:
narcotics trafficking**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

APRIL 14, 2008

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IPP

JUDGE

MAG. JUDGE